Supreme Court, U.S.
FILED

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No. _____

Supreme Court of the United States

October term 1997

Reverend James O'Leary
Dios La Iglesia De Laities
De Sacred Holy Sacramento
Petitioner

vs.

State of California
State of California Lands Commision
California Fish and Game
City of West Sacramento
Ramos Oil Co.
United States Coast Guard,
Marine Safety Office
Respondents

Petition for an extraordinary writ

Reverend James O'Leary
P.O. Box 206, Broderick, CA 95605

19 pp.

QUESTIONS PRESENTED

THE DISTRICT COURT DID NOT PROPERTY " ABSTAINED " FROM THE EXERCISE OF FEDERAL JURISDICTION UNDER THE YOUNGER DOCTRINE TO PERMIT THE STATE OF CALIFORNIA TO ACT AS ITS OWN JUDGE AND JURY AND BE CONDONED BY THE LOWER FEDERAL COURTS.

THE YOUNGER DOCTRINE WAS NOT INTENDED TO "CONDONE" THE OVERT ACTS OF THE STATE OF SOVEREIGN (?) STATE OF CALIFORNIA.

THE PLAINTIFF ALLEGES THAT THE DEFENDANTS HAVE COMMITTED A "FEDERAL CAPITOL CRIME" AND CONSPIRACY IN THIS CASE AND SHOULD NOT BE ALLOWED TO ACT AS THEIR OWN JUDGE AND JURY UNDER THE YOUNGER ABSTENTION DOCTRINE. YOUNGER VS. HARRIS 401 U. S. 37,27 L.ED.2D.

STATE OF CALIFORNIA OFFICIALS FOR THE PAST 20 YEARS HAVE COMMITTED ARSON, CONSPIRACY, MALEVOLENCE AND TERRORIST ACTIONS AGAINST THE "O'LEARY FAMILY" BECAUSE THEY DON'T LIKE THE PLAINTIFFS RELIGION (RELIGIOUS BELIEFS POLITICAL AND LIFESTYLE). AND NOW WORST OF "ALL" THEY HAVE UNLAWFULLY SOLD, TRADED (SWEETHEART DEALS) TO THE FOREIGN INVESTORS (JAPAN,- HAZAMA U. S. A . CORP. AMERICAN HAZMA INC., TAMIO NAKAMURA, TETSUO TOMODA, HIDEAKI KATO, MANABU YAMADA, ISAO HONDA AND KUOTING WANG). ALL OF THE ABOVE THROUGH "HOLDING CORPORATIONS" LIGHTHOUSE MARINA, RIVERVIEW CORP., RIVERBEND DEVELOPMENT, MONEYSTORE, CITY OF WEST SACRAMENTO. ETC.. ETC.. ETC.. BANK OF INDIA - WELLS FARGO BANK - NOW OWN AND CONTROL OVER ¼ OF CITY OF WEST SAC.

QUESTIONS PRESENTED

WHAT HAS HAPPENED TO "FREE AMERICAN ENTERPRISE"? WHERE HAS THE BILLIONS OF DOLLARS TO "BUY" THE SACRAMENTO RIVER LAND AND NAVIGABLE WATERWAYS CAME FROM? THE UNITED STATES FEDERAL GOVERNMENT OR G.S.A. OR "FREE AMERICAN ENTERPRISE" INVESTORS (UNLESS IN CONSPIRACY) "CAME UP" WITH THE MONEY? (FOREIGN INVESTORS - MONEY STORE, AMERICAN HASMA, U.S.A., AND THEIR "HOLDING COMPANYS" HAVE "CREATED THE UN-AMERICAN CITY OF WEST SACRAMENTO (A PRIVATE CORP. WITH ONLY UNLAWFUL POLITICAL CONNECTION WITH THE CITY OF SACRAMENTO)

UNDER COLOR OF THE LAW, THE DEFENDANTS HAVE "CLOSED" THE SACRAMENTO RIVER AND "ACCESS" TO THE FEDERAL NAVIGABLE WATERWAYS AND "ACCESS" TO THE RIVER.

ON AUG. 5/96 ABOUT 8 A.M, CAPTAIN REVEREND JAMES O'LEARY ABROAD THE "GOOD SHIP SEA SONG" WHICH IS CONVERTED INTO THE DIOS LA IGLESIA DE LAITIES (SACRED HOLY SACRAMENTO - SACRAMENT) CHURCHBOAT, WAS SAILING DOWNSTREAM ON THE SACRAMENTO RIVER (MILE 59) TO GO UNDER THE RAILROAD BRIDGE AND HE REQUESTED THE BRIDGE TO BE RAISED. "THE BRIDGE INFORMED CAPTAIN O'LEARY THAT THEY HAD ORDERS NOT TO RAISE THE BRIDGE FOR "THE GOOD SHIP SEA SONG" IN AS MUCH THE "SHIP" WAS ALREADY IN THE BRIDGE (EAST CHANNEL AND DUE TO THE HIGH WIND (15 k.) AND CURRENT (8 K.) THE "SHIP" HAD TO GO THROUGH AND UNDER THE RAILROAD BRIDGE.

QUESTIONS PRESENTED

THE MAST AND SMOKESTACKS DID NOT CLEAR THE BRIDGE AND THE HULL SUFFERED MINOR DAMAGE. THE CAPTAIN THEN DROPPED STERN ANCHOR ON STARBOARD AND DRIFTED OUT OF THE CHANNEL TO THE WEST BANK OF THE RIVER OUT OF THE SHIP CANAL. HE THEN DROPPED BOW ANCHOR AND THE VESSEL (SEA SONG) WAS SAFELY MOORED AND SECURED. CAPTAIN O'LEARY THEN GAVE COMMAND TO THE FIRST MATE (RICHARD O'LEARY ABS).

CAPTAIN REVEREND WAS ARRESTED BY THE CITY OF WEST SACRAMENTO AND CHARGED WITH 2 OFFENCES (STATE) 655 H AND N, 656 H AND BOOKED IN TO JAIL. (CAPTAIN O'LEARY ASKED FOR AND RECEIVED A JURY TRIAL AND WAS FOUND NOT GUILTY ON ALL COUNTS).

THE DEFENDANTS THEN ORDERED FIRST MATE RICHARD O'LEARY ABS OFF THE VESSEL AND THEN UNLAWFULLY SEIZED THE "GOOD SHIP SEA SONG" AND UNDER "COLOR OF THE LAW" PROCEEDED TO SABOTAGE THE VESSEL. THE "SABOTEUR" WAS THE DEFENDANTS IN ONE WAY OR ANOTHER. THE DEFENDANTS HAVE REFUSED TO RETURN OR TELL WHERE IT IS AT OR WHAT HAPPENED TO THE CHURCH SACRED HOLY CROSS AND SHIP'S GEAR.

ARTICLE III - JUDICIAL SHALL EXTEND TO ALL CASES OF ADMIRALTY AND FEDERAL MARITIME COMMISSION JURISDICTION. (JUDICIAL POWER)

28 - USC 1292 RULE 9 (H) ETC. ETC. ETC.

THE PLAINTIFF ALLEGES THIS COURT HAS ADMIRALTY AND FEDERAL MARITIME COMMISSION IN THIS UNITED STATES NAVIGABLE WATER CASE.

CONCLUSION

THE PLAINTIFF ALLEGES THE DISTRICT COURT DID NOT HAVE THE JURISDICTION TO USE THE YOUNGER DOCTRINE IN THIS CASE BECAUSE THE DEFENDANTS ARE CHARGED WITH THEIR OWN OVERT ACTS OF PIRACY, CONSPIRACY, VIOLATION OF CIVIL RIGHTS AND CAPITAL CRIMES. THE STATE OF CALIFORNIA DID NOT HAVE JURISDICTION OVER THE GOOD SHIP SEA SONG WHEN THEY UNLAWFULLY SEIZED AND UNDER COLOR OF LAW.

THE QUESTION OF STATE OF CALIFORNIA -SOVEREIGNTY RIGHTS AGAINST THE RIGHTS OF THE UNITED STATES GOVERNMENT AND THE UNITED STATES CONSTITUTION SHOULD NOT BE ANSWERED IN STATES COURT, BUT IN THE PROPER UNITED STATES FEDERAL COURT.

THE PLAINTIFF ALLEGES IT IS "UNFAIR" TO REQUIRE $5000 BOND (PAID IN FULL) AND TO CALL THEM VEXATIOUS LITIGANTS AND NOT ALLOW TO USE THE SACRED HOLY SACRAMENTO -SACRAMENT, WHICH IS THE SACRED HOLY RELIGION OF THE PLAINTIFFS. THE STATE OF CALIFORNIA (SECULAR) GRANTS SECULAR CITY'S OF CITY OF SACRAMENTO AND THE CITY OF WEST SACRAMENTO TO USE THE LORDS NAME IN VAIN.

BY GODS WILL THEY CAN NEVER BE ORDAINED BY JESUS CHRIST. (SACRAMENT = WEBSTERS, CASELLS DICTIONARY AND THE SACRED HOLY BIBLE.

SMILE GOD LOVES YOU.

GOD BLESS ALL

Reverend James O'Leary

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DIOS LA IGLESIA DE LAITIES
DE SACRED HOLY
SACRAMENTO - SACRAMENT

JAMES O'LEARY
Minister and Advisor

God Bless All

STATEMENT OF THE CASE

THE PLAINTIFFS ALLEGES THAT THE DEFENDANTS HAVE COMMITED A " CAPITOL CRIME " AND " CONSPIRACY " IN THIS CASE AND " IN NO WAY " SHOULD THEY BE ALLOWED TO ACT AS THIER OWN " JUDGE AND JURY " OR BE CONDONED BY THE LOWER COURTS. YOUNGER VS. HARRIS - 401 - U. S. 37 (1971)

THE YOUNGER DOCTINE WAS NOT INTENTED TO " CONDONE " THE OVERT ACTS OF THE " SOVEREIGN " STATE OF CALIFORNIA....

THE " SOVEREIGN " STATE OF CALIFORNIA HAS PLACED ITSELF " ABOVE THE LAW " AND HAVE CLOSED THE SACRAMENTO RIVER (LANDS) TO NAVIGATION AND ACCESS. THEY HAVE " SOLD AND TRADED " (SWEETHEART DEALS) TO FOREGIN INVESTORS WHO SHOW NO RESPECT TOWARD AMERICAN FREE ENTERPRISE OR U. S. A.. (CAN BE PROOVEN IN COURT)

ARTICLE 111 - JUDICAL POWER SHALL EXTEND TO ALL CASES OF ADMIRALTY AND FEDERAL MARITIME COMMISSION.

THE PLAINTIFFS ALLEDGE THIS HAS ADMIRALTY AND MARITIME JURISDICTION IN THIS NAVIGABLE WATER CASE. 28-USC-1292 - RULE 9 (H) ECT. .

THE DEFENDANTS UNLAWFULLY SIEZED, BOARDED and SABOTAGED THE " GOOD SHIP " SEA SONG. (UNITED STATES COASTGUARD DOCUMENTED -D 507522) UNDER COLOR OF THE LAW.

THE " VESSEL " WAS COASTGUARD APPROVED AND SEAWORTHY UNDER ITS OWN POWER.

STATMENT OF THE CASE

THE " SOVEREIGN " STATE OF CALIFORNIA " HAS COMMITTED " MALFEANCE " BY SELLING THE RIGHTS OF AMERICAN NAIGABLE RIVER WATERWAYS AND ACCESS TO FORIGN INVESTORS AND HAVE GRANTED PROPERTY RIGHTS THAT ARE NOT WITHIN THIER JURISDICTION.

THE ATTORNEY GENERAL OF CALIFORNIA IS AS " GUILTY " UNDER U. S. CODE (1986) BECAUSE THEY KNEW OF THIS CRIME.

SOVEREIGN - SOVEREIGHTY MEANS - KINGLY, ROYAL MAJESTIE - IMPERIAL MONARCHIE -LANDS OF THE KINGDOM - SOVEREIGNTY OF THE SEAS AND QUEENLY.

DEMOCRACY - MEANS - CONSTSTITUTIONAL - REPRESENTATIVE FEDERAL GOVERMENT -REPUBLIC FEDERATION = GOVERMENT U.S.A..

" SOVEREIGN " STATE OF CALIFORNIA WANTS IT " BOTH " WAYS ????????

IN A " DEMOCRACY " DO WE NEED SOVEREIGNTY?

WHAT IS BETTER FOR AMERICAN WAY OF LIFE ?

AMERICAN U. S. A. OR JAPAN U. S. A. ???

GOD BLESS ALL

Reverend James O'Leary

STATUTES AND CONSTITUTIONAL PROVISIONS INVOLVED

US Const Amendment VI provides:

> In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the state and district wherein the crime shall have been committed, which district shall have been previously ascertained by law; and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor; and to have the assistance of counsel for his defence.

US Const Amendment XIV provides:

> Sect. 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law, nor deny any person within its jurisdiction the equal protection of the laws.

Mich. Ct. R. 6.508 provides in pertinent part:

> (B) *Decision Without Evidentiary Hearing.* After reviewing the motion and response, the record, and the expanded record, if any, the court shall determine whether an evidentiary hearing is required. If the court decides that an evidentiary hearing is not required, it may rule on the motion or, in its discretion, afford the parties an opportunity for oral argument.
>
> (C) *Evidentiary Hearing.* If the court decides that an evidentiary hearing is required, it shall schedule and conduct the hearing as promptly as practicable. At the hearing, the rules of evidence other than those with respect to privilege do not apply. The court shall assure that a verbatim record is made of the hearing.
>
> (D) *Entitlement to Relief.* The defendant has the burden of establishing entitlement to the relief requested. The court may not grant relief to the defendant if the motion
>
> > (1) seeks relief from a judgment of conviction and sentence that still is subject to challenge on appeal pursuant to subchapter 7.200 or subchapter 7.300;
> >
> > (2) alleges grounds for relief which were decided against the defendant in a prior appeal or proceeding under this subchapter, unless the defendant establishes that a retroactive change

in the law has undermined the prior decision;

(3) alleges grounds for relief, other than jurisdictional defects, which could have been raised on appeal from the conviction and sentence or in a prior motion under this subchapter, unless the defendant demonstrates

(a) good cause for failure to raise such grounds on appeal or in the prior motion, and

(b) actual prejudice from the alleged irregularities that support the claim for relief. As used in this subrule, "actual prejudice" means that,

(i) in a conviction following a trial, but for the alleged error, the defendant would have had a reasonably likely chance of acquittal;

(ii) in a conviction entered on a plea of guilty, guilty but mentally ill, or nolo contendere, the defect in the proceedings was such that it renders the plea an involuntary one to a degree that it would be manifestly

unjust to allow the conviction to stand;

(iii) in any case, the irregularity was so offensive to the maintenance of a sound judicial process that the conviction should not be allowed to stand regardless of its effect on the outcome of the case;

(iv) in the case of a challenge to the sentence, the sentence is invalid.

The court may waive the "good cause" requirement of subrule (D)(3)(a) if it concludes that there is a significant possibility that the defendant is innocent of the crime.

(E) *Ruling*. The court, either orally or in writing, shall set forth in the record its findings of fact and its conclusions of law, and enter an appropriate order disposing of the motion.

RELIEF REQUESTED

For all of the reasons staed above, Petitioners request this Court issue a writ of certiorari or alternatively remand this matter for further proceedings.

Respectfully submitted,

Reverend James O'Leary

JUDGMENT

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT
NO. 96-17165 CT/AG#:
CV-96-01525-WBS/JFM

DIOS LA IGLESIA DE LAITIES DE SACRED HOLY SACRMMENTO -SACRAMENT, and; JAMES O'LEARY, SR., Reverend
P1aintiffs - Appellants
V.
STATE OF CALIFORNIA; STATE OF CALIFORNIA LANDS COMMISSION; CALIFORNIA DEPARTMENT OF FISH AND GAME; CITY OF WEST SACRAMENTO; RAMOS OIL CO
Defendants - Appellees
and
MARINE SAFETY OFFICE; U.S. COAST GUARD
Defendants

APPEAL FROM the United States District Court for the Eastern District of California (Sacramento) .

THIS CAUSE came on to be heard on the Transcript of the Record from the United States District Court for the Eastern District of California (Sacramento) and was duly submitted.

ON CONSIDERATION WHEREOF, It is now here ordered and adjudged by this Court, that the judgment of the said District Court in this cause be, and hereby is AFFIRMED.

Filed and entered August 29, 1997

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

DIOS LA IGLESIA DE LAITIES DE SACRED HOLY SACRAMENTO - SACRAMENT and JAMES O'LEARY SR., Reverend, Plaintiffs-Appellants, v. STATE OF CLAIFORNIA; STATE OF CALIFORNIA LANDS COMMISSION; CALIFORNIA DEPARTMENT OF FISH AND GAME; CITY OF WEST SACRAMENTO; RAMOS OIL CO., Defendants-Appellees, and MARINE SAFETY OFFICE; U.S. COAST GUARD, Defendants	) No. 96-17165) D.C. No. CV-96-) 01525-WBS/JFM)))) MEMORANDUM*)))))))))

Appeal from the United States District Court
for the Eastern District of California
William B. Shubb, District Judge, Presiding

Submitted August 25, 1997**
Before: SCHROEDER, FERNANDEZ, and RYMER, Circuit Judges

Reverend James O'Leary, Sr. appeals pro se the district court's dismissal of his civil rights under the Younger

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* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

** The panel unanimously finds this case suitable for decision without oral argument. See Fed. R. App. P. 34 (a) ; 9th Cir. R. 34-4. Accordingly, O'Leary's request for oral argument is denied.

abstention doctrine. We have jurisdiction pursuant to 28 U.S.C. § 1291, and we affirm.

We review de novo a district court's decision to abstain under Younger v. Harris, 401 U.S. 37 (1971). See Wiener v. County of San Diego, 23 F.3d 263, 266 (9th Cir. 1994).

A district court must abstain from exercising jurisdiction where: "(1) state judicial proceedings are pending; (2) the state proceedings involve important state interests; and (3) the state proceedings afford the federal plaintiff an adequate opportunity to litigate federal constitutional claims. Id. (setting forth criteria for abstention under Younger v. Harris, 401 U.S. 37 (1971)).

First, the State of California's action against O'Leary was underway prior to the filing of the federal complaint and the state-court action was still pending when the district court decided to abstain. See Wiener, 23 F.3d at 266-67. Second, the state-court action alleged violations of state nuisance laws, which involve an important state interest. See World Famous Drinking Emporium, Inc. v. City of Tempe, 820 F.2d 1079, 1082-83 (9th 1987). Last, O'Leary did not demonstrate that he was unable to present his federal constitutional claims in state court. See id. at 1083 (concluding that state-initiated nuisance proceedings provide an adequate opportunity to litigate federal constitutional claims) .

Accordingly, because all of the Younger requirements are met, the district court properly abstained. See Wiener, 23 F.3d at 266.

AFFIRMED.

SUPREME COURT OF THE UNITED STATES
OFFICE OF THE CLERK

DIOS LA IGLESIA DE LAITIES
DE SACRED HOLY SACRAMENTO - SACRAMENT

REVEREND JAMES O'LEARY

PLAINTIFFS

CASE # D. C.

VS.

CV- 96 - 01525

STATE OF CALIFORNIA

KBS - JFM

DEFENDANTS

PROOF OF SERVICE

I HAVE SERVED ALL DEFENDANTS WITH 2 COPIES OF COMPLAINT OF THIS CASE. I HEREBY CERTIFY THAT THIS PETITION FOR CERTIORARI TO THE SUPREME COURT IS PRESENTED ON GOOD FAITH.

GOD BLESS ALL

Reverend James O'Leary

JAMES O'LEARY

PLAINTIFF,

VS.

CITY OF SACRAMENTO, A MUNICIPAL CORPORATION,

CITY OF WEST SACRAMENTO, A MUNICIPAL CORPORATION.

Court seals the fate of one town's symbol

By JEAN PONESSA
GOVERNING MAGAZINE

Religion can be a part of a town's history, community or even its name, but it needs to stay off the city seal.

That's what a federal appeals court ruled when it declared unconstitutional the seals of two northeastern Illinois towns.

"Sectarian religious imagery simply has no place on municipal seals," a 7th U.S. Circuit Court of Appeals panel said.

In the case of Zion, Ill., a town of 19,000, the city seal includes a cross and a banner that reads "God Reigns." The seal was used by the religious community that founded the town in the 1800s.

Former Zion Mayor Adeline Geo-Karis, who also is a state senator, says the seal has been used for years without stifling religious diversity. Religion is part of the history of

• See Seals, Page A7

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